

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Thomas Lee Brincefield, #21261-057,)	C/A No. 4:22-3024-JFA-TER
Petitioner,)	
)	
vs.)	
)	
Nanette Barnes,)	ORDER
Respondent.)	
)	
)	

This is a § 2241 action filed by a federal prisoner. This case is before the undersigned due to Plaintiff's failure to comply with the magistrate judge's order dated September 22, 2022, for Plaintiff to pay the fee or file an *in forma pauperis* motion. (ECF No. 5).

The mail in which the Order was sent to Plaintiff's provided address has not been returned to the court, thus it is presumed that Plaintiff received the Order, but has neglected to comply with the Order within the time permitted under the Order. The Court has not received a response from Plaintiff and the time for compliance has passed.

"The court has "inherent power to manage its docket in the interests of justice." *Luberda v. Purdue Frederick Corp.*, No. 4:13-cv-00897, 2013 WL 12157548, at *1 (D.S.C. May 31, 2013). It also has the authority expressly recognized in Rule 41(b) to dismiss actions for failure to prosecute. Fed. R. Civ. P. 41(b). "The authority of a court to dismiss *sua sponte* for lack of prosecution has generally been considered an 'inherent power,' governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R. Co.*, 370 U.S. 626, 630–31 (1962).

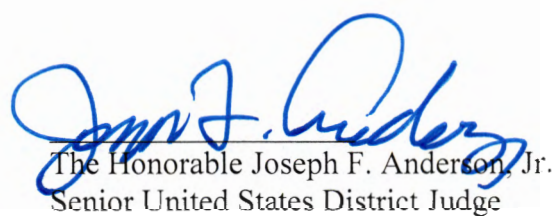
Plaintiff's lack of response indicates an intent to not prosecute this case, and subjects this case to dismissal. *See* Fed. R. Civ. P. 41(b)(district courts may dismiss an action if a Plaintiff fails to comply with an order of the court); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir.

1989)(dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982)(court may dismiss *sua sponte*); *see also Brown v. Clarke*, 2022 WL 42489, at *1 (4th Cir. Jan. 5, 2022)(affirming habeas R. 41 dismissal for failure to pay the filing fee or apply for *in forma pauperis* status).

Accordingly, this case is dismissed without prejudice. The Clerk of Court shall close the file.

IT IS SO ORDERED.

Columbia, South Carolina
October , 2022



The Honorable Joseph F. Anderson, Jr.
Senior United States District Judge

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.